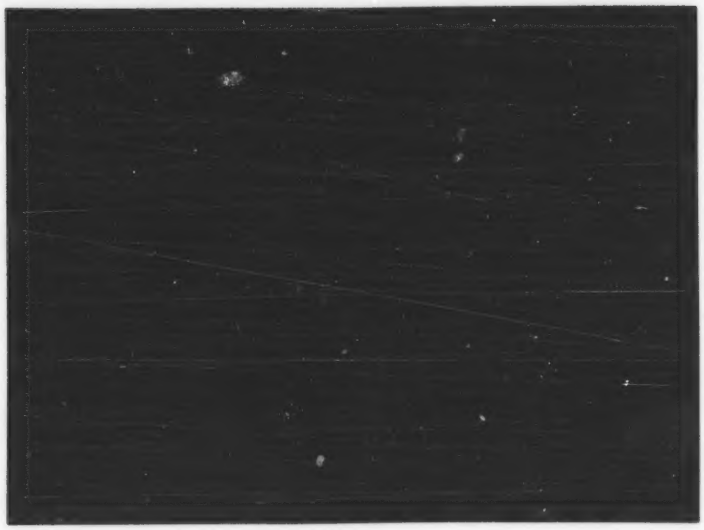

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NATIVE WOMEN AND THE LAW

March 30, 1989

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NATIVE WOMEN AND THE LAW

INTRODUCTION

The first part of this paper looks at the empirical work that has been done on Native[1] female offenders in Ontario, and identifies areas where further research is needed. The second part develops a context within which current Native legislation can be viewed and further research done.

I. NATIVE FEMALE OFFENDERS

The main source of statistical information respecting both Native women and men in the criminal justice system in Ontario is that compiled by the Ministry of Correctional Services on admissions to and discharges from provincial institutions. The collection of these statistics began in 1977. The most recent analysis of statistics was undertaken by the Ontario Native Council on Justice for the fiscal year 1984/85.[2]

The most recent surveys of Native inmates were conducted in the early 1980s. The Ontario Native Council on Justice and Ontario Ministry of Correctional Services jointly published

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[1] Defining the words used to describe the original people of this land is difficult and confusing because of the differences between their culture as it existed and that of the European culture, and the way in which these people have been viewed by Europeans since their arrival. A culture cannot be understood fully until its language is understood. Words reflect the belief system and values of a culture. Although there were many groups with many languages in North America, almost none of this was taken into consideration by the federal government when these people were officially defined. (See Valentine, Victor F., "Native Peoples and Canadian Society: A Profile of Issues and Trends" in Cultural Boundaries and the Cohesion of Canada, eds R. Breton, J. Reitz and V. Valentine. (Montreal: Institute of Research on Public Policy, 1980), p. 65). Valentine lists 13 terms for Native persons in official usage, and identifies four principal ones that are widely used in government: Status Indians (those entitled to be registered under the Indian Act), Non-Status Indians (those who have been denied registration status); Metis (descendants of interracial marriages); and Inuit (Although excluded from the Indian Act, these people do come under jurisdiction of the federal government. See Valentine, p. 65-69). These definitions suited the purposes and intentions of the European culture, and have caused a great deal of confusion and anxiety among the original peoples. In this paper the terms "Native," "original peoples," or "First Nations" will be used. (See also Patricia Monture, "A Vicious Circle: Child Welfare and the First Nations," Canadian Journal of Women and the Law, Vol. 3, No. 1, 1989, p. 2, Footnote 1.)

[2] Asbury, Kathryn E. Fact Sheet on the Disproportionate Imprisonment of Native People in Ontario, 1984-1985. Toronto: Ontario Native Council on Justice, 1986.

The Native Inmate in Ontario in 1981, with a preliminary study undertaken in 1978.[3] The purpose of these reports was to define the problems faced by Natives serving time in provincial correctional institutions. In the 1981 report,[4] sixty-six females and 447 males were interviewed. Most were serving a sentence at the time of the interview. Some of the conclusions reached were stated in terms of both males and females. Where there were significant differences between them, these were identified.

It appears that the only survey devoted exclusively to Native females in the criminal justice system in Ontario was undertaken by Bernice Dubec for the Ontario Native Women's Association in 1982.[5] For this study, 33 women were interviewed between October 1981 and November 1981. These women were in municipal jails (Kenora, Sudbury, Toronto, Hamilton), a provincial correctional centre (Vanier Centre), and a Native women's resource centre (Thunder Bay).[6]

The following is an analysis of the data contained in each of these studies. While the Asbury study looks at the total numbers of Native inmates in Ontario institutions, the surveys can each be seen as a snap-shot of a few women at a given point in time and their experiences in and out of prison. Topics covered are: admissions, sentences, age, types of offences, alcohol, socio-economic status, probation, programs, isolation, and alternatives to imprisonment. Areas where further research is needed will be identified.

a) Admissions

That Native persons are over-represented in the criminal justice system is well-known. Natives made up about two per cent of Ontario's population in 1984/85.[7] For this year there were 62,869 male admissions and 4916 female admissions to provincial jails and detention centres. Native males accounted for 8 per cent (4976) of the total male admissions, and Native females for 16 per cent (786) of the total female admissions.[8]

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[3] Irvine, M.J., The Native Inmate in Ontario - A Preliminary Survey. Toronto: Ontario Ministry of Correctional Services and the Ontario Native Council on Justice, 1978. Birkenmayer, A.C., and S. Jolly, The Native Inmate in Ontario. Toronto: Ontario Ministry of Correctional Services and the Ontario Native Council on Justice, 1981.

[4] The results of the 1978 study are cited in the 1981 study. The 1981 study will be used in this analysis.

[5] Dubec, Bernice. Native Women and the Criminal Justice System - An Increasing Minority. Thunder Bay: Ontario Native Women's Association, 1982. A similar study was done in Montreal: Suan Cross Zambrowsku, "Needs Assessment on the Native Women who are or may be in Conflict with the Law in the Region of Montreal, funded by Solicitor General of Canada, 1986.

[6] Dubec. p. 3.

[7] This is an estimate. See Asbury, p. 2.

[8] Asbury, p. 8. Ontario Ministry of Correctional Services Statistical data. Three measurements are used by the ministry to determine the numbers in correctional facilities:

In her report Asbury identified Northern Ontario as a region of special concern given that the proportion of Native admissions in general, and Native female admissions in particular, to a jail/detention centre[9] in the North of the province is generally much greater than in the South. For example, at the Kenora District Jail, 96 per cent of the 191 women admitted were Native, making up 38 per cent of the total Native female admissions in the province. At the Fort Francis Jail, the proportion of Native females to the total number of females was 85 per cent (14 women), and at the Thunder Bay Jail, 58 per cent of the 63 females admitted were Native.[10] Sixty-one per cent of female Native offenders were admitted to the six institutions in the North (Kenora, Fort Francis, Thunder Bay, Sudbury, Sault Ste Marie and North Bay), and 39 per cent were in the South.[11]

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persons (the actual number of persons admitted), admits (the number of times people are admitted during the year), and counts (the number of times a given offence is committed). For example, if there are 10 persons, 20 counts, and 15 admits, this means that 10 people accounted for 20 charges and 15 admissions. A gap in these figures is that the number of counts or admissions per person is not calculated. This means that it cannot be determined whether a small minority of offenders is responsible for many counts of an offence, or whether most offenders are each responsible for several counts. For example, (using the same numbers as above), we do not know whether each of the 10 people committed the offence twice, or whether a few are responsible for more than twice with the majority committing the offence only once. As recommended by Asbury, it would be useful if this information could be provided. (Asbury, p. 3.) This analysis will calculate the average number of counts and admits.

[9] There are 36 jails/detentions centres in Ontario that come under provincial jurisdiction. People that serve time in these provincial institutions can be there for a number of reasons:

1) They are serving a short sentence, generally under 124 days;
2) They have been remanded in between bail hearings once they have been charged;
3) They have been charged with an offence and must remain in custody until the trial because they have failed to obtain bail;
4) They have been sentenced to in excess of two years less a day and are waiting to be transferred to a federal institution;
5) They have violated parole or are on an immigration hold and are waiting for their hearings.

A sentence of over 124 days is usually served at a correctional centre, although some may serve these longer sentences in a jail or detention centre if the correctional institutions are overcrowded or on special request. There are 10 such centres for men, and 1 for women - The Vanier Correctional Centre (VCC). Asbury, p. 8.

[10] Asbury, p. 9-10.

[11] Asbury, p. 10.

These statistics can be seen within the context of the Native female prison population in Canada as a whole. Ontario is merely a reflection of the rest of the country: "In 1982, Native women made up more than 20 per cent of the number of women in prisons in Alberta and British Columbia and more than 70 per cent of the total female prison populations in Saskatchewan, Manitoba, the Yukon and the Northwest Territories."[12] In terms of the total population of Canada, Native women make up 2-3 per cent, yet they represent 30 per cent of the total inmate population at the Kingston Prison for Women at any point in time.[13]

b) Sentences

This forms a subset of the previous discussion on admissions, accounting for only those Native females who have been admitted to the institution for the purpose of serving a sentence. Native females comprised 18 per cent of all inmates (both male and female) serving sentences in provincial institutions in 1984/85.[14] This compares to 16 per cent of the total admissions discussed in the previous section. Native females accounted for 21 per cent of the females who began serving sentences in provincial jails or detention centres in 1984/85.[15]

Once again the concentration of Native females serving sentences in Northern Ontario is clear: sixty-four per cent of Native female sentences began in the Northern institutions.[16]

In terms of length of sentence, Asbury found that in the fiscal year 1984/85, 95 per cent of Native female inmates in Ontario served sentences under 6 months, 88 per cent served sentences under 3 months, and 68 per cent served sentences under 30 days.[17] Dubec also found that a significant proportion of her sample served short sentences, although it is not

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[12] National Survey Concerning Female Inmates in Provincial and Territorial Institutions. Ottawa: Canadian Association of Elizabeth Fry Societies, 1982, as cited in A Forgotten Minority: Women in Conflict with the Law. Ottawa: Canadian Association of Elizabeth Fry Societies, 1985, p. 6. Hereafter cited as A Forgotten Minority.

[13] Edwards, Brenda L. , Native Women: Still Barred from Justice? Mimeographed. November 15, 1988, p. 3; LaPrairie, C.P., "Selected Criminal Justice and Socio-Demographic Data on Native Women," in Canadian Journal of Criminology, Vol. 26, No. 2, 1984; and A Forgotten Minority, note 3, p. 24.

[14] Asbury, p. 18.

[15] Because in most cases it is not possible to enter a correctional centre without first having been admitted to a jail or detention centre, this includes those Native females serving sentences at Vanier Correctional Centre. See Asbury, p. 12. Native women accounted for 8 per cent of the women at VCC in 1984/85. See Asbury, p. 14.

[16] Asbury, p. 12-14.

[17] Asbury, p. 16.

as clear because 25 per cent of the women were serving sentences of an uncertain length of time. She found that 54 per cent were serving sentences under 7 months, 39 per cent under 3 months, and 18 per cent under 1 month.[18]

Dubec also looked at the number of times the women in her sample had been sentenced to jail. Fifty-five per cent had been sentenced to jail three times or less, 15 per cent had been sentenced at least 14 times, and 21 per cent were sentenced 17 times or more.[19]

When asked the length of time between the last incarceration and current arrest, 37 per cent of Dubec's sample had spent three months or less on the street, and 49 per cent had spent nine months or less before being in jail. Twenty-seven per cent of the women interviewed had not been in jail for a period over 1 year.[20]

It can be said from the above statistics on admissions and sentences that the percentage of Native women serving sentences compares with the number who are admitted, that a large number of the women are incarcerated in Northern Ontario, and that they serve shorter sentences (less than six months), with less than a year between sentences.

c) Ages of Native Females Admitted

Forty-four per cent (245) of the total Native female admissions to provincial institutions in 1984/85 were between 16-25 years of age. The 26-35 Native female age group made up 28 per cent (157) of total Native female admissions, and Native females between the ages of 36-50 made up 21 per cent (115) of all total Native female admissions.[21]

d) Ages of Native Females Sentenced

Asbury found that Native persons who were 20 years of age or younger accounted for 22 per cent of the total Native females serving sentences in provincial institutions, and that Native persons under age 30 made up 48 per cent of this total.[22] Dubec found that 37 per cent of the women interviewed in her sample were under age 20, and that 55 per cent were under age 30.[23]

Dubec also asked about the age at the time of first arrest. Seventy per cent were under the age of 18 the first time they were arrested, and 87 per cent of the women had been

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[18] Dubec, p. 16.

[19] Ibid.

[20] Dubec, p. 18.

[21] Asbury, p. 11.

[22] Asbury, p. 19.

[23] Dubec, p. 6.

arrested at least once by the age of 21.[24] Birkenmayer and Jolly found that 45 per cent of the Native females in their sample were 16-18 years of age when they were first convicted.[25]

Thus, younger women (under 30) were found to be the majority of women admitted and serving sentences, many of them teenagers when first arrested or convicted.

e) Type of Offence

The most common offence for Native females in 1984/85 was violating the Liquor Control Act. They accounted for 62 per cent of the total female sentences for liquor offences for this year.[26] Fifty per cent of Native women served sentences for alcohol violations in 1984/85, compared with 8 per cent of non-Native women serving time for this offence.[27]

In the Kenora Jail, where there is a large percentage of Native females admitted and serving sentences, they accounted for 99 per cent of the total sentences for liquor violations in 1984/85. These liquor violations accounted for 72 per cent of the total sentences served by Native women in Kenora.[28]

Other common offences for Native women were theft, other federal statutes, and assault. The following is a comparison of the four most common offences for which Native and non-Native females served sentences.

FEMALES

Native		Non-Native	
1. Alcohol violations	50%	1. Theft	23%
2. Theft:	10%	2. Fraud	13%
3. Other federal statutes	6%	3. Drinking and driving	11%
4. Assault	5%	4. Breach of Ct. order	9%

Asbury comments:

> It is significant that Native and non-Native female offenders served sentences of approximately equal lengths although 50 per cent of Native women committed

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[24] Dubec, p. 15.

[25] Birkenmayer and Jolly, p. 10.

[26] Asbury, p. 17.

[27] Asbury, p. 18.

[28] Asbury, p. 22.

> the relatively less serious crime of violating the Liquor Control Act in comparison to approximately the same percentage of non-Native females who committed more serious crimes of theft, fraud, and drinking and driving. It would seem important to study the sentencing practices by judges of Native women.[29]

In Dubec's sample, 55 per cent of the women were incarcerated because of violations to the Liquor Control Act. Twenty-seven per cent were in jail because of property offences, and 18 per cent for assaultive offence.[30] Birkenmayer and Jolly found that of the charges laid against Native females, 31 per cent involved liquor, and 24 per cent involved property.[31]

f) Alcohol and Drug Abuse

Both Dubec's study and that of Birkenmayer and Jolly asked about the extent to which the inmates felt that the use of alcohol had contributed to their arrest. Dubec found that 67 per cent of the women said alcohol had contributed to their arrest, and 12 per cent said drugs had. Eighteen per cent said neither had caused them to be arrested.[32] Birkenmayer and Jolly found that "over 3/4 of the inmates cited alcohol as the reason why so many Native people end up in jail." Over 3/4 of the interviewees also believed that alcohol had contributed to their first clash with the non-Native justice system.[33]

Dubec found that 64 per cent of her sample were addicted to the use of alcohol or drugs, that 67 per cent of the women interviewed had taken part in an alcohol or drug treatment program, and that 41 per cent did not complete their program. Some of the reasons for not completing the programs were: difficulty understanding the course because of language barrier, family problems, difficulty relating to staff and other participants, and not being ready for treatment. Forty-one per cent were also in the process of taking a course.[34]

Birkenmayer and Jolly found that a lack of participation in alcohol treatment programs, both inside and outside prison was true for the majority of females, and that most viewed such programs as being ineffective.[35]

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[29] Asbury, p. 18.

[30] Dubec, p. 19.

[31] Birkenmayer and Jolly, p. 5.

[32] Dubec, p. 20.

[33] Birkenmayer and Jolly, p. 18. The male/female ratio was not provided.

[34] Dubec, p. 20-21.

[35] Birkenmayer and Jolly, p. 18.

Thus, all three studies found liquor violations to be at the top of the list for Native female offenders. Many believed the use of alcohol or drugs had contributed to their arrest. Many were addicted, and had tried addiction treatment programs, but a significant number had not completed them.

g) Socio-Economic Status

Both the Dubec, and the Birkenmayer and Jolly surveys asked questions respecting the socio-economic status of the Native women in their samples. Birkenmayer and Jolly found significant differences between males and females, and Dubec's results tended to confirm those of the females.

•*Marital Status*: Dubec found that 46 per cent of her sample were single, and that 42 per cent were married or living common-law. Birkenmayer and Jolly did not break their sample down according to male and female with respect to marital status. Of their total sample, 61 per cent were single and 27 per cent were married or living common-law.[36]

•*Dependents*: Thirty-nine per cent of the women in Birkenmayer and Jolly's study had no dependents, compared with 70 per cent of the men. Sixty-one per cent of the women had one or more dependents, compared with 30 per cent of the men. Thirty-eight per cent of the women had two or more dependents, compared with 21 per cent of the men.[37]

Eight per cent of the women with dependents said their children were in the care of a spouse or ex-spouse. This contrasts with 65 per cent of the men with dependents. Twenty five per cent of the women said their children were in the care of the Children's Aid Society, compared with 6 per cent of the men. For those children being cared for by the inmate's mother, 28 per cent of the women and 2 per cent of the men said that this was the case.[38]

Dubec found that 76 per cent of her sample had no children living at home at the time of their arrest. Of this 76 per cent, 48 per cent had children in the care of the Children's Aid Society or had been adopted.[39] It is not clear whether the remaining fifty-two per cent of the women with no children at home had no children at all, or whether they were in the care of a friend or relative. If it is assumed that they had no children, then the percentage of the total number of women interviewed with no children would be 40.

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[36] Birkenmayer and Jolly, p. 13.

[37] Ibid.

[38] Birkenmayer and Jolly, p. 14.

[39] Dubec, p. 7-8.

Twenty-four per cent of the women in Dubec's study had one or more children less than eighteen years of age living at home when they were arrested. Twelve per cent had two or more living at home.[40]

From this it is clear that Native women are more likely to have dependents than Native men, and that if dependents are involved when a Native is incarcerated, women must rely on their family or on the Children's Aid Society for care and men can more often rely on their spouse or ex-spouse.

•*Education level*: Dubec found that fifty-one per cent of her sample had less than a Grade 8 education, and that 97 per cent had less than Grade 11.[41] Questions respecting education were not asked in the Birkenmayer and Jolly study.

•*Employment*: Dubec found that none of the women in her sample held a full-time job at the time of their arrest. Six per cent were working part-time, 21 per cent were homemakers, and nine per cent were enroled as students or in a training program. Six per cent were unemployable due to health. This means that 58 per cent of the women interviewed were in need of a job at the time of their arrest.[42]

Forty per cent in Dubec's sample had no previous employment history. Of those who had been previously employed, 57 per cent had held jobs that were unskilled, semiskilled, or seasonal. Three per cent had held hairdressing positions, for which formal skill are required.[43]

Birkenmayer and Jolly found that 3 per cent of the women they interviewed had held a permanent job during the year before their incarceration, compared to 25 per cent of the men. Eighteen per cent of the women had some form of employment during this time, compared to 62 per cent of the men. Of those women who had jobs, 83 per cent were dependent on those that were temporary or seasonal, compared with 59 per cent of the men. Birkenmayer and Jolly calculated that the minimum rate of unemployment among Native female inmates was 74 per cent, compared with 26 per cent for the men.[44]

With respect to public assistance as a means of economic support, Birkenmayer and Jolly found that 39 per cent of the women had been supported by some form of assistance (such

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[40] Dubec, p. 7.

[41] Dubec, p. 9.

[42] Dubec, p. 10.

[43] Dubec, p. 11.

[44] Birkenmayer and Jolly, p. 14-15.

as welfare, unemployment insurance benefits, or a pension) the year before their incarceration, compared to 16 per cent of the men. Thirty-eight per cent of the women were dependent on parents, spouses, friends, or relatives for support during the previous year. Ten per cent of the male inmates were so supported.[45]

Upon release, not one female in the Birkenmayer and Jolly sample had a definite job to go to, compared to five per cent of the males, and 17 per cent of the females expected to be dependent on public sources as compared to 5 per cent of the male inmates.[46] All of the women in Dubec's study said they planned to go back home when released. Sixty-one per cent of the women interviewed reside on a reserve where programs and employment opportunities are limited.[47]

To summarize, there is high unemployment among Native female offenders (more so than among men), and almost all of the jobs that are held require no specialized skills. Public assistance is used more by women than by men.

Each of the two surveys also addressed themselves to issues not covered by the other. Dubec looked at probation, and programs and services. Birkenmayer and Jolly asked about social and cultural isolation, alternatives to imprisonment, and current problems.

h) Probation

Dubec found that 73 per cent had had previous experience with the juvenile and/or adult probation program, and that 46 per cent had had at least one probation order and 27 per cent had two. Fifteen per cent of the women had spent less than one year on probation, and 58 per cent had spent one year or more on probation. Fifty-seven per cent of the women interviewed successfully completed their probation order and 43 per cent did not complete their probation order.[48]

i) Programs

The kinds of activities the women in Dubec's study were involved in while in jail were largely beadwork, cards, or watching television. The kinds of programs needed according to the interviewees are rehabilitation services (such as drop-in centres, Native women counsellors, half-way house for Native women with children, Native women inmate liaison workers), alcohol programs, employment opportunities (training programs), and recreation. Dubec discovered that 94 per cent of the women interviewed had never taken any

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[45] Birkenmayer and Jolly, p. 15-16.

[46] Ibid.

[47] Dubec, p. 24.

[48] Dubec, p. 12-13.

manpower-sponsored courses, and that 97 per cent had never been enroled in a job training program/course. The overwhelming majority of those women interviewed said the Native community should provide these types of services and programs, and that they would use them if they were available.[49] Birkenmayer and Jolly mentioned that problems centred on family matters was three times as high among the women as the men.[50]

j) Isolation

Birkenmayer and Jolly found Native inmates, both male and female, to be seriously isolated from their families, communities, and each other. Native women received fewer visits than men, and it was more costly for their families to visit. In addition to the distance, time and expense involved in visiting, a breakdown in family relationships and communication was also an important reason for isolation. Contact with the Native community was considered by those interviewed to be helpful.[51]

k) Alternatives to Imprisonment

On the question of alternatives to imprisonment, "three-quarters of the Native inmates would prefer to do community service or make restitution instead of going to jail or, if sentenced to a term of imprisonment, would prefer to serve their sentence in a community-based resource centre or attend a half-way house or community centre as part of parole supervision.[52] Two-thirds would prefer to pay a fine than to spend time in jail. Thirty-three per cent of the women (compared to 17 per cent of the men) were given a choice of paying a fine or serving time. Seventy-eight per cent of the women who were serving time for defaulting on payment of a fine said the reason was a lack of money, compared to 58 per cent of the men. Three-quarters of the inmates were recidivists, but almost two-thirds were not considered to be security risks. (No male/female breakdown).[53]

DISCUSSION

The above analysis shows clearly some of the more salient numbers and characteristics of Native women in conflict with the law. A disproportionate number are incarcerated, a large percentage of whom serve time in Northern Ontario. Many are under 30, having served sentences several times before for short periods of time, usually for alcohol

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[49] Dubec, p. 9-10, 22-25.

[50] Birkenmayer and Jolly, p. 28.

[51] Birkenmayer and Jolly, p. 23.

[52] Birkenmayer and Jolly, p. 29.

[53] Ibid.

offences. Many have children and are unemployed, supporting themselves and their families by public assistance programs. They have few skills with which to find employment, and a very small number have participated in employment training programs. When serving time, Native women experience isolation, and would prefer to pay a fine or do community service.

What is also clear is the kind of data that needs to be collected by the province. As well as counting the number of Native women involved, questions similar to those asked in the Dubec, and the Birkenmayer and Jolly studies need to be asked of all inmates. The importance of determining male and female profiles separately was illustrated in the Birkenmayer and Jolly study with respect to socio-economic status. Also, because of their small numbers, statistics for females become lost when considered with male statistics. Comparisons also must be made between Native and non-Native females. The importance of this was illustrated in the comparison between these two groups by Asbury with respect to type of offence.

Asbury points out further gaps in the provincial collection of statistics:

- whether Native persons are more or less likely than non-Natives to receive bail
- the numbers of Native persons who are charged annually with offences by the police or the disposition of these offences by the courts
- the home location of an offender and the area of the province where she serves her sentence.
- information on the number of Native persons who secure parole versus serving their full sentences
- whether there is prejudiced or discriminatory application of the law, and/or whether there is systemic discrimination within the law itself.[34]

[34] Asbury, p. 3-4.

II. NATIVE WOMEN AS NATIVE

Of primary importance to Natives in Canada is the issue of self-determination. First Nations people see themselves as just that -- members of a separate and distinct society, and not a disadvantaged group to be lumped in with the other ethnic minorities. It appears that virtually all of the problems that exist between Natives and the government can be seen as arising from the fact that Native Canadians have not been able to determine their own future according to their own fundamentally different view of the world, and their place in it. Of relevance to this paper is how these views clash with respect to justice and to the notion of womanhood.

a) White Justice vs. Native Justice

Patricia Monture describes the criminal justice system of the dominant white culture as being "exercised through the use of punishment, force, and coercion."[55] She continues:

> As a First Nations woman, my worldview does not revolve around the acceptance of punishment or the validation of force and coercion. Instead, it revolves around balance. The spiritual ceremonies and traditional teachings given by the Elders involve instruction about who we are as individuals and as members of a nation. These holistic teachings involve education, spirituality (you say, religion), law (we say, living peacefully), family, and government. Holistic means to be connected. The earth is mother. The sky is father. Woman is earth and earth is woman. They are inseparable. The traditions in no way involve a hierarchical ordering. There exists a natural balance between women and men in the way of creation.[56]

It is clear that Native communities wish (and have always wished) to exist autonomously so that they are free to continue to live their lives according to their traditions. The values held by a people cannot be removed from them, and it is therefore impossible to ask someone to deny those values and live according to different ones.[57] In the words of Sharon McIvor:

> This [Native] culture is at odds with the white society and there is absolutely no way that these two societies can mix. We can live side by side but we cannot and should not force our culture on each other.[58]

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[55] Monture, p. 5.

[56] Monture, p. 5. She also points out that "it is impossible to capture the essence of traditional ways in a moment or on paper. It is a lifelong commitment to learn these ways." See p. 5.

[57] Monture, p. 5.

[58] McIvor, Sharon D. "Native Woman's Perspective" for presentation at the Eighth Biennial Conference of the National Association of Women and the Law, Montreal,

However, from the time of the first explorers, who viewed the original people of Canada as "uncivilized and backward"[59] through successive governments, which have looked upon Native people as "a disadvantaged subclass at the lowest level of the class system," who need to have socio-psychological and cultural impediments removed in order to advance within the system,[60] the policies of economic domination and political integration have prevailed[61] Native people are now the most impoverished group in Canada.[62] As member of this community, Native women have suffered greatly, as has been seen in the statistics in Part I. This is the context--one of the quest for self-determination against policies of assimilation--within which it can be understood how this socio-economic deprivation has contributed significantly to the over-representation of Native women in the criminal justice system.

b) Native Women As Women

In addition to an alien justice system, Native women encounter a very different notion as to what it means to be a woman as they are pressured to become a member of the dominant society. The most striking difference between EuroCanadian and Native attitudes toward women is that traditionally, Native women were not only highly regarded, "but they occupied positions of authority in both civil and ecclesiastical affairs."[63]

> The concept that woman was made from man was not found in Native religion. Native people accept and adhere to the doctrine that the female was created simultaneously with the male, that neither was accorded supremacy, and that each was made dependent upon the other for existence. Both women and men held high rank among Native supernaturals. Prayers and pleas were offered to sky father and earth mother. The morning star was thought of as the male star and the evening star as the female star. The sun was male and the moon was female. The concept of equality and balance was central to all traditional teachings. Among traditional peoples, these are not concepts of the past but are the living teachings of today.[64]

Canada, February 16-19, 1989.

[59] Valentine, Victor, "Native People and Canadian Society: A Profile of Issues and Trends," in Cultural Boundaries and the Cohesion of Canada, eds. R. Breton, J. Reitz and V. Valentine (Montreal: Institute of Research on Public Policy, 1980), p. 55.

[60] Valentine, p. 49.

[61] Valentine, p. 71. See also Kathleen Jamieson, Indian Women and the Law in Canada: Citizens Minus. Ottawa: Minister of Supply and Services Canada, 1978. This provides a description of how the policy of assimilation has been developed.

[62] Valentine, p. 47.

[63] Verna Kirkness, "Emerging Native Woman." Canadian Journal of Women and the Law. Vol. 2, No. 2, 1987/88, p. 409.

[64] Kirkness, p. 409.

Women in traditional Native society had a much higher status than their European counterparts. For example, there existed matrilineal descent, the right of a woman to terminate her marriage by a simple announcement, the right to vote, and the opportunity to rise to chieftainship.[65] Upon contact with the dominant society, Native women were gradually stripped of these rights and privileges. With the overall policy objective of assimilation, Native communities were expected, in time, to become members of the dominant society and emulate its values, including those accorded to women.

Thus, Native women were members of a culture that was a victim of economic and political domination, losing the right to determine its own future, and they themselves lost the status they enjoyed as women when Europeans established themselves in North America.

c) Bill C-31

The struggle on the part of Native women to gain back some of their lost status was addressed by the government through Bill C-31, An Act to Amend the Indian Act. The current Indian Act is the one of the most recent in a series of legislative measures addressing the government-Indian relationship.[66] Green describes the Act further:

> The creation and implementation of the Act was premised on European concepts of how both female persons and non-white races were to be dealt with. Females, as property, did not possess individual rights separate from their male parent or spouse. Indians were to be raised to the colonial level of civilization and then assimilated into the colonial population, without special rights or legal status. The Indian Act was the instrument by which this would be achieved.[67]

The goals of Bill C-31 were to:

- ensure equality between men and women by removing blatantly discriminatory sections of the Indian Act;
- restore Indian status and band membership to those who lost them because of discrimination; and
- recognize the right of Indian bands to determine their own membership for the future.[68]

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[65] Kirkness, pp. 411-412.

[66] Joyce Green, "Sexual Equality and Indian Government: An Analysis of Bill C-31 Amendments to the Indian Act" in Native Studies Review, Vo. 1, No. 2 (1985), p. 82.

[67] Green, p. 93.

[68] Communique, Indian and Northern Affairs Canada, Ottawa (February 128, 1985) as cited in Holly Penner, Background Paper - Bill C-31 - An Act to Amend the Indian Act, Ottawa: National Association of Women and the Law, 1988, p. 1.

One of the most widely publicized Sections of the act was Section 12(1)(b) , which took away Indian status from Indian women who married non-status Indians or non-Indians.[69] Before Bill C-31, the same stipulation did not apply to Indian men i.e. Indian men did not lose their status upon marriage to a non-status or non-Indian woman.[70] Jamieson describes the situation:

> The consequences for the Indian woman of the application of section 12(1)(b) of the Indian Act extend from marriage to the grave -- and even beyond that. The woman, on marriage, must leave her parents' home and her reserve. She may not own property on the reserve and must dispose of any property she does hold. She may be prevented from inheriting property left to her by her parents. She cannot take any further part in band business. Her children are not recognized as Indian and are therefore denied access to cultural and social amenities of the Indian community. And, most punitive of all, she may prevented from returning to live with her family on the reserve, even if she is in dire need, very ill, a widow, divorced or separated. Finally, her body may not be buried on the reserve with those of her forebears.[71]

While Bill C-31 addressed this discrimination (identified in goals 1 and 2 above), it also, at the same time, tried to satisfy Indian groups who were pressing for control over band membership (goal 3) as a step toward self-government.[72] Prior to this, Indian status automatically conferred band membership and the rights that went with it.[73] This means that women who regain their status do not necessarily gain band membership.

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[69] In 1973, Janet Lavell and Yvonne Bedard contested their loss of Indian status under Section 12(1) (b) in the Supreme Court of Canada. They argued that the discriminatory provisions in this section were contrary to the Canadian Bill of Rights. The court ruled five to four that the Indian Act was exempt from the Canadian Bill of Rights. See Kathleen Jamieson, Indian Women and the Law in Canada: Citizens Minus. (Ottawa: Minister of Supply and Services Canada, 1978) Chapter 14. In 1981 the United Nations Human Rights Commission ruled on the case of Sandra Lovelace, an Indian who had also lost her status upon marriage to a non-Indian. Lovelace contended that Canada was in violation of the International Covenants on Civil and Political Rights, and the International Bill of Human Rights, both of which Canada was a signatory. The Commission could not find Canada guilty of sexual discrimination because her marriage had taken place before Canada had ratified the Covenants. However, the Court found Canada in violation of Section 27 of the Covenant of Civil and Political Rights, which guarantees the right of all persons to enjoy their culture in their community. See Green, p. 84 and Janet Silverman, Enough is Enough - Aboriginal Women Speak Out. (Toronto: The Women's Press, 1987).

[70] Penner, p. 4.

[71] Jamieson, p. 1.

[72] Penner, p. 3.

[73] The membership provisions in Bill C-31 must conform to the equality provisions of the Charter of Rights and Freedoms. This means that the legislation falls short of the claim to an inherent right to determine citizenship regardless of Canadian legislative criteria. See Green, p. 85.

The Native community was not united behind the women fighting for an end to Section 12(1)(b). Some argued that it was encouraging the federal government to dabble in the affairs of Indians, and they therefore opposed it. Others had economic reasons: reserves were already bursting at the seams, and there was no guarantee that any more money would be forthcoming for the anticipated influx of reinstated women and children. Another basis of opposition was emotional - the Indian Act was seen as the last bastion of Indian rights, and tampering with it means risking losing everything.[74] By giving bands a further say in determining their own membership, but not giving them the financial backing to do so, means there is no incentive for bands to accept reinstated women on their reserves.[75] Further, with the bad feelings generated on the reserves as a result of the struggle, reinstated women must deal with this emotional backlash.[76]

The result was "a compromise between the collective rights of Indians to self-government and the individual and collective rights of Indian women to equal treatment, Indian status, and band membership.[77] The Ontario Native Women's Association (ONWA) commented:

> Bill C-31 was a political compromise, based only partially on the positions of Indian people. Mostly, it reflected an attempt to appease competing political pressures while keeping costs to a minimum. While trying to appeal to the greatest number of people by being 'middle of the road' it succeeded, rather, in pleasing no one.[78]

Although it does not appear to be documented, the effect of Bill C-31 on the crime rate of Native women seems obvious. If bad socio-economic conditions are major causal factors in Native female crime, and given that Bill C-31 works against the betterment of women who have lost their status, Bill C-31 can the be said to contribute to the conditions which breed anger and desperation that result in crime, if not a direct cause of crime.

In terms of how Native women see themselves traditionally, the sexism of the Indian Act, and the failure of Bill C-31 to solve the problem of women returning to their homes, not only took away the status they enjoyed before European people came, but had a disastrous effect on First Nations communities. In traditional Native culture, "it is the women who stands at the centre of the nation because women are the caretakers of children."[79] The removal of women from their community means that the community collapses.

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[74] Green, pp. 89-90.

[75] Penner, p. 3.

[76] Green, p. 91.

[77] Penner, p. 1.

[78] Presentation to the Standing Committee on Aboriginal Affairs on Bill C-31. Thunder Bay: Ontario Native Women's Association, February 1988, p. 5.

[79] Monture, p. 5.

d) Child Custody

It is clear that the issue of child custody is very important for Native female offenders. As was seen in Part I, a significant number of women place their children in the care of the Children's Aid Society when they serve time in jail. These children are over-represented within the child welfare system, and the situation does not appear to be improving.[80] It is estimated that the First Nations population in Canada is 3.5 per cent of the total, and that First Nations children comprise twenty-two per cent of the total number of children in care in Canada.[81]

Just as a community falls with the removal of women, a culture dies when children are taken away. Children are the ones who carry on the culture. Removing them from the community means

> The traditional circle of life is broken. This leads to a breakdown of the family, the community, and breaks the bonds of love between the parent and the child. To constructively set out to break the Circle of Life is destructive and is literally destroying Native communities and Native cultures."[82]

Monture calls the removal of First Nations children from their culture an act of genocide.[83]

When seen from the perspective of the different notions of justice of Native and European culture (as previously discussed) child welfare can be seen on a continuum with the criminal justice system:

> Both institutions remove citizens from their communities, which has a devastating effect on the cultural and spiritual growth of the individual. It also damages the traditional social structures of family and community. Both the child welfare system and the criminal justice system are exercised through the use of punishment, force, and coercion."[84]

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[80] Monture, p. 3.

[81] Monture, p. 2. Previously in this paper it was said that Native females make up 2-3 per cent of Canada's population. Statistics respecting First Nations population is very difficult to determine, and every source seems to be different. However, for the purposes of this paper, it is clear that no matter what the total, Native women are still over-represented in the criminal justice system, as are Native children in the child welfare system.

[82] Jessica Hill, Remove the Child and The Circle is Broken. (Thunder Bay: Ontario Native Women's Association, 1983), p. 55 as cited in Monture, p. 3.

[83] Monture, p. 3.

[84] Monture, p. 5.

e) Native Men

So far the effects of European domination on Native women and how these contribute to Native female crime have been examined. Another way to understand the causes of Native female crime is from the perspective of the effects of domination on Native men. In an article "Native Women and Crime in Canada: A Theoretical Model,"[85] Carol LaPrairie addresses this issue.

She first looks at Native communities in terms of the class structure of Canada and of the world economic system.

> Ours is a hinterland society, an economic colony which has a history of exploitation by foreign metropolitan centres like London, New York and Houston, and by domestic metropolises like Toronto and Montreal. Like a child's playing blocks, these big cities and hinterlands form a nested structure wherein each metropolis has its hinterland. For example, Thunder Bay is a hinterland to Toronto, but northwestern Ontario is a hinterland to Thunder Bay and Toronto is a hinterland to larger urban centres such as New York. Native communities, especially Indian reserves, usually occupy the bottom rung of the ladder of hinterland-metropolis relationships.[86]

Looking more closely at the Native communities on this bottom rung, LaPrairie describes their economies as "underdeveloped," implying "deliberate economic subordination," as these communities were moved off highly productive land onto marginally productive land.[87] Their economic condition worsened with the post-war industrialization of Canada, including the establishment of the welfare state.

She then links these economic forces with the individuals involved, particularly, the role played by men.

> With the coming of the Europeans four centuries ago, Indian people were encouraged to abandon traditional economic activities such as hunting, in favour of trapping and barter ...[this] fundamentally altered the reliance of Indian people on traditional economic activities. With that demise of traditional economies came profound changes in family roles. Through a series of causal steps, these changes eventually brought Indian men and women into conflict with each other.[88]

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[85] Carol LaPrairie, "Native Women and Crime in Canada: A Theoretical Model" in Ellen Adelberg and Claudia Currie, eds, Too Few to Count, (Vancouver: Press Gang Publishers, 1987), pp. 103-112.

[86] Gail Kellough, "From Colonialsim to Imperialism: The Experience of Canadian Indians," in Structured Inequality in Canada, eds. John Harp and John R. Hofley (Scarborough, Ontario: Prentice-Hall, 1980), p. 349. as cited in LaPraire, p. 105.

[87] LaPrairie, p. 105.

[88] LaPrairie, p. 106-107.

"The disparity between the desired traditional roles and the available or achievable roles was so great as to produce tension, anxiety, frustration, and anger."[89]

This frustration, it is argued, is taken out on members of the community, including family members. This includes rape, child sexual abuse, and wife battering. The role of alcohol is described as being something which allows repressed hate to come to the surface.[90]

It is then hypothesized that there is a direct causal link between the conditions of Indian men, male violence against Indian women, and subsequent criminal activity by Indian women.

> The conflict of some Native women with the law may be linked in a variety of ways to the aforementioned role strain experienced by Indian men. First, Native women may retaliate in kind against physically abusive Native men. Secondly, Native women may escape from a violent or otherwise abusive situation at home and migrate to an urban area where discrimination by the larger society, combined with a usually low level of skills and education, may relegate them to the ranks of the unemployed or unemployable. That in turn increases the probability of restoring to alcohol or drug abuse, or to prostitution, all of which increase the probability of conflict with the law. ... Finally, having observed neglectful or abusive treatment of children among role models in her community, or having experienced such treatment herself, the Native woman may be predisposed to treating her children in like manner.[91]

Thus, the causes of Native female crime can be seen within the context of the European policy of political and economic assimilation, and how this affected both Native women and men. The move to reserves, with marginally productive land, was a dramatic change for First Nations people. This provided Europeans with a vital first step in succeeding with their policy goals. It is much easier to assimilate a politically contained, economically disadvantaged people than a free-roaming people with access to all the resources it needs.

Politically, Native women were reduced to the status of European women by a sexist Indian Act, especially Section 12(1)(b). This section caused even greater economic hardship for women, many of whom resorted to desperate measures to survive.

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[89] LaPrairie, p. 107.

[90] Laprairie, p. 108.

[91] LaPrairie, p. 109. LaPrairie points out the limitations of this theory, such as "the unsatisfactory data base, and the broad generalizations that do not take into account the great variation which exists between and within Native communities." Its strengths are that instead of blaming the victim, it "takes into account the broader economic, socio-cultural, and legal factors which are associated with being both Native and female in a male-dominated, non-Native society, and which contribute to women coming into conflict with the law."

These measures were considered crimes by the justice system defined by the Europeans, and women who committed them came up against a justice system based on very different values and ways of resolving conflict. Spending time in prison, with little or no opportunity to improve her situation upon release, meant falling back even further.

Native men also lost the status they had in their families because of the changed economic situation. Turning on their families through frustration once again placed women in a position where they were forced to take action to allow them to survive. This action, once again, caused the full force of European law to come upon them, and they were placed in a penal institution which further eroded their ability to deal with an already impossible situation.

Part II of this paper so far has looked at some of the theorized causes of Native female over-representation in the criminal justice system from the perspective of self-determination. That is, policies of political and economic assimilation on the part of the dominant culture, working in direct opposition to Native cultural traditions, have resulted in excess numbers of criminal acts which would not have taken place if these policies had not been pursued, and if Natives had been allowed to live according to their own traditions. These causes are hypothesized, but cannot be demonstrated due to a lack of documentation. This must be done in order to continue to discover the causes of Native female crime, and so that effective measures can be taken. What little research has been done demonstrates that this perspective as a viable framework for further research.

Assuming that self-determination, if allowed to be implemented, would decrease the criminality of Native women, it is important to look at the support for increased Native autonomy.

f) Self-Determination

In 1985 the Government of Ontario issued a new corporate Native Affairs policy for Ontario which supported the general principal of self-government and self-reliance for Native peoples.[92] In 1988 a Canadian Bar Association Report, called *Locking Up Natives in Canada*, recommended that "the federal and provincial governments and the native people of Canada be exhorted to further their efforts to negotiate and settle questions of self-determination, self-government and native land claims by an accord between them."[93] *The Report of the Race Relations and Policing Task Force*, released by the Solicitor General of Ontario in April 1989, recommended the establishment of a task force to study the feasibility of Native justice systems in Ontario, to be created within one year.[94]

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[92] Correspondence from the Minister Responsible for Native Affairs to Mr. Gordon Peters, Ontario Regional Chief dated December 16, 1985.

[93] John Conroy, Introduction, Overview, and Summary of Recommendations of the Special Committee on Imprisonment and Release. (Ottawa: Canadian Bar Association, August 1988), p. 5.

[94] The Report of the Race Relations and Policing Task Force. Toronto: Ontario Solicitor General, 1989, p. 190.

Some urgency was brought to bear on the issue of Native peoples in the 1988 Annual Report of the Canadian Human Rights Commission, which claimed that "from the human rights perspective, ... the time has come to raise this issue to the very highest level of the national agenda."[95] With respect to self-government, it states: "The issue today is not whether the aboriginal peoples should have greater control over their own affairs, but the nature and extent of that control."[96] It also points out, however, that with respect to the justice system, "it does not seem likely that native peoples will have control over substantial parts of the justice system for some time to come ... it is likely that the general system will continue to apply to many native Canadians; and that system is heavily weighed against them. Ways must be discovered to remove bias..."[97]

There are several possibilities which are identified or alluded to in the above passage. One is self-government, which involves Natives taking over all aspects of their lives, including the justice system. The next one, more limited, is Natives taking over their own justice system, but remaining under the jurisdiction of the dominant culture in other areas.[98] Third, and more limited still, is improving the existing system until such time as the justice system can be transferred.

The second and third possibilities are identified in a recent working paper of the Correctional Law Review:[99]

> [One] approach is that special legislative provisions could turn over a significant degree of jurisdiction to aboriginal-run correctional organizations. Correctional services, parole and after-care services could be provided by Aboriginal correctional authorities within a clearly defined legal relationship with the Solicitor General.[100]

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[95] Annual Report 1988, (Ottawa: Canadian Human Rights Commission), p. 21.

[96] Ibid, p. 19.

[97] Ibid, p. 20.

[98] An example of the establishment of a Native criminal justice system is the Saddle Lake Tribal Justice Centre in Alberta, where offences in the Criminal Code were re-written into a civil code appropriate to the Native philosophy of conciliation, mediation, and arbitration. See G.S. Clark and Associates Ltd., Native Victims in Canada: Issues in Providing Effective Assistance. (Ottawa: Ministry of the Solicitor General of Canada, 1986), p. 3.

[99] Correctional Issues Affecting Native Peoples. Solicitor General Canada: Correctional Law Review Working Paper No. 7, February 1988, p. 40.

[100] p. 40.

Another, more limited, approach would be to amend existing correctional legislation. This entails no fundamentally new arrangements; control would remain with the existing correctional system.[101]

> Under this scheme there would be increased native consultation through regional and national Aboriginal Advisory Committees. Programs specifically geared to Native cultural and spiritual needs would be guaranteed, and rehabilitation and release programs would be specially designed for Native people. Affirmative action in hiring and promotion of Native staff is essential to this approach, as is increased Native awareness training for all correctional staff.[102]

In other words, while Native self-government is being negotiated, or until First Nations peoples take over their own justice systems, the existing legislation must be amended to improve the conditions of Native offenders. With respect to the establishment of Native justice systems within a more autonomous framework, Carol LaPrairie points out that in most instances, it is not simply a matter of taking back the authority and returning to pre-contact times. While it is important to understand Native criminology according to older customary law, this must be done from a perspective of modernization.[103] "The desire to hold on to notions of what appears to have been a more just, egalitarian, cohesive and less adversarial society is compelling, but the existence and maintenance of customary law in Aboriginal society in Canada today must be examined in the contemporary context."[104]

She suggests that in order to understand customary law in a contemporary context, we need to understand how these societies are structured economically, politically, and socially. However, she points out that "the analysis of the effects of colonization on traditional life remains at a broad and general level", and that "specific changes in social relations as a result of adaptation to external pressures have not been systematically documented."[105]
With respect to improving the existing legislation, we shift from the view that Native peoples are an autonomous people to the dominant culture's view that they are a disadvantaged minority. From this perspective, Native women are an extreme example of the difficulties faced by women in general.

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[101] p. iv, 40.

[102] Ibid.

[103] LaPrairie, Carol Pitcher, Aboriginal Criminal Justice in Canada: Some Theoretical Considerations. Mimeographed. (Ottawa, Ministry of the Solicitor General of Canada, 1986), p. 3.

[104] LaPrairie, p. 7.

[105] LaPrairie, p. 8.

Researcher Holly Johnson writes:

> The lower socio-economic status of Canadian women can be traced to paternalism and gender-based roles through which women's participation in a wide range of economic activities is limited and advancement curtailed. Restrictive generalizations and overt discrimination, justified on the basis of women's maternal functions and physical differences, place them at a distinct disadvantage in all aspects of social and economic life. Women continue to be socialized to expect a limited range of functions in life which for the most part precluded economic independence and foster low expectations and low self-esteem. An appreciation of these aspects of women's experience is central to understanding female criminality.[106]

From her examination of the limited statistical data,[107] "Canadian statistics suggest a link between the social and economic status and the criminality of women."[108] She continues:

> Women who come into conflict with the criminal justice system tend to be young, poor, under-educated and unskilled. A disproportionate number are Native. Many are addicted to alcohol, drugs, or both. Large numbers have been victims of physical and sexual abuse, and many are emotionally or financially dependent on abusive male partners. ... For the most part, women in conflict with the law are non-violent offenders who commit petty crimes of economic gain. Their offences are concentrated in the types of property crimes that could well be considered means of survival in a time when employment options for unskilled women are becoming increasingly restricted. For some women, sexual or physical abuse as a child mark passage into a life of street prostitution; for others, years of physical or emotional abuse as an adult culminates in a single act of violence. Many women offenders are at the same time victims.[109]

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[106] Canada, Report of the Royal Commission on the Status of Women in Canada (Ottawa: Ministry of Supply and Services, 1970), p. 11 and Canada, Report of the Commission on Equality in Employment (Ottawa: Ministry of Supply and Services, 1985), pp. 133-164 as cited in Holly Johnson, op cit, p. 25.

[107] There are very few statistics available on Canadian female offenders. These include: Sharon Moyer, et al, Native and Non-Native Admissions to Federal, Provincial and Territorial Correctional Institutions, (Ottawa, Solicitor General of Canada, 1985); Cindy Misch, et al, National Survey Concerning Female Inmates in Provincial and Territorial Institutions, (Ottawa: The Canadian Association of Elizabeth Fry Societies, 1982); Holly Johnson, "Women and Crime in Canada," (Ottawa: Solicitor General of Canada, TRS No.9, 1986); and A Forgotten Minority. Too Few to Count is the most recent source of the experiences of women in conflict with the law.

[108] Johnson, p. 26.

[109] Johnson, p. 26 and 43.

According to this perspective, there will not likely be any improvement for Native women until there is improvement for EuroCanadian women.

In terms of theory, A *Feminist Review of Criminal Law* is the most recent examination of Canadian criminal law from a feminist perspective. It is based on the belief that "women live in a patriarchal world, subject to male domination and control."[110]

Clearly if existing legislation is to be changed in order to benefit Native women, it must take into account the general oppression of women within the Canadian penal system. As far as transferring the administration of justice to Native groups, given that these groups must reach an understanding of their tradition within a modern framework, and given that women in modern Canadian society are not treated equally, the solution will be part of a very painful process for many years to come. It is therefore important to continue to press for the equality of Canadian women, both in and out of prison. Given that we have a model - albeit traditional - of equality between men and women in Native culture, Canadian women would do well to learn from this, and assist Native women in a common struggle.

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[110] Christine L.M. Boyle, et al, A Feminist Review of Criminal Law, (Ottawa: Minister of Supply and Services Canada, December 1985). See also Meda Chesney-Lind, "Women and Crime: The Female Offender in Signs, Vol. 12, No. 1, Autumn 1986 and Shelley Gavigan, "Women's Crime: New Perspectives and Old Theories in Too Few to Count.

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